

### Remarks

This is in response to the first substantive Office Action mailed March 31, 2006, which withdrew non-elected claims 8, 14, 19 and 20, objected to the title of the application, rejected claims 1-2, 9-12 and 15-16, and objected to claims 3-7, 13, 17 and 18.

The Applicant has hereinabove amended the title and cancelled the withdrawn claims 8, 14, 19 and 20 without prejudice. The Applicant reserves the right to bring claims generally directed to the subject matter of the cancelled, non-elected claims in a divisional application.

These amendments are proper, do not introduce new matter, and serve to place the application in proper condition for reconsideration and allowance.

### Objection to Specification

The Examiner objected to the title of the application as not being descriptive of the claimed subject matter. While the Applicant respectfully traverses the objection, the Applicant has elected to amend the title to now read "*APPARATUS FOR PROTECTING AND MERGING A HEAD STACK ASSEMBLY.*"

The Examiner kindly suggested replacement language for the title, *to wit*, "*AN APPARATUS COMPRISING A CARRIER ADAPTED TO PROTECT A HEAD STACK ASSEMBLY*" (emphasis added). The proposed language has been carefully considered, but was not adopted by the Applicant.

It is noted that this proposed language appears to overlook the merge tool positively recited in at least independent claims 9 and 15 which, as explained more fully below, generally operates to merge the head stack assembly.

Accordingly, reconsideration and withdrawal of the objection to the title of the specification are respectfully requested in view of the amendment thereto.

**Rejection of Claims Under 35 U.S.C. §102(b)**

Claims 1-2, 9-12 and 15-16 were rejected as being anticipated by U.S. Patent No. 5,984,104 to Schott et al. ("Schott '104"). Claims 1, 9 and 15 were further rejected as being anticipated by U.S. Patent No. 5,826,325 to Price et al. ("Price '325"). These rejections are respectfully traversed.

The Applicant initially notes that both of these references were submitted to the Office by the Applicant in the Information Disclosure Statement (IDS) filed with the application, and that the originally presented claims were drafted in view thereof. Accordingly, as discussed below the Applicant respectfully submits that the anticipation rejections are misplaced. Each reference will be discussed in turn.

**1. Schott '104**

Schott '104 generally discloses a carrier 82 to protect a magnetic head assembly 84. As shown in FIG. 5, the carrier 82 includes segregating members 114A, 114B which contactingly engage flexible load beams (flexures) of the magnetic head assembly 84. For clarity, the flexures appear to be referred to by reference numerals 92A-92D in FIG. 3, and by reference numerals 12A-12D in FIGS. 6-8.

Buffering members 116A, 116B of the carrier 82 project from the segregating members 114A, 114B in a direction toward sliders (transducers) 96A-96D. As best viewed

in FIG. 8, gaps normally exist between the respective buffering members 116A, 116B and the flexures 92A-92D adjacent the transducers 96A-96D.

Accordingly, Schott '104 is at least silent with regard to disclosing "a carrier support surface arranged to continuously, contactingly support the distal end of the flexure adjacent the transducer." as recited by claim 1. Instead, Schott '104 expressly discloses to *intermittently* contactingly support the distal end of the flexures adjacent the transducers via the buffering members 116A, 116B. See FIG. 8. Continuous contacting support of the flexures is supplied by Schott '104 to *medial portions* of the flexures by way of the segregating members 114A, 114B. See e.g., the rounded tips 120A, 120B of FIG. 7.

Schott '104 is further silent with regard to the recited carrier support surface being arranged "to permit a subsequent engagement of a medial portion of the flexure by a merge tool which disengages the flexure from the carrier support surface while merging the transducer with a recording surface." As noted above, Schott '104 is silent with regard to disclosing a merge tool at all, but it can be seen that the projecting buffering members 116A, 116B would necessarily prevent any such engagement of the medial portions of the flexures by a merge tool, as claimed.

Reconsideration and withdrawal of the rejection of claim 1 as being anticipated by Schott '104 are respectfully requested on these bases. Reconsideration and withdrawal of the rejection of the claims that depend from claim 1 are requested on the basis that these claims depend from a patentable base claim.

With regard to the rejection of claim 9, Schott '104 at least fails to disclose a "merge tool" featuring "a merge support surface."

In support of the rejection, the Examiner identified the buffering members 116A, 116B of the carrier 82 as supplying the recited “merge support surface.” This is misplaced. First, claim 9 separately recites a “merge tool” and a “carrier,” and these are terms well understood by those skilled in the art.

It is well settled that a claim term is to be given its ordinary and customary meaning as understood by one skilled in the art *unless* the Applicant has provided a *clear indication* that the term is to be given a non-standard definition. See *Boss Control, Inc. v. Bombardier Inc.*, 410 F.3d 1372(Fed. Cir. 2005); *In re Morris*, 44 USPQ2d 1023 (Fed. Cir. 1997); MPEP 2111. No such clear indication has been provided by the Applicant.

It is also clear error to assign different definitions to the same claim term appearing in different claims of the same application. See e.g., *Ecolab Inc. v. Environchem, Inc.*, 264 F.3d 1358 (Fed. Cir. 2001); MPEP 2173.05.

In the present case, the Examiner has improperly characterized the buffering members 116A, 116B of carrier 82 of Schott '104 as both the recited “carrier support surface” of claim 1 and the “merge support surface” of claim 9, even though the specification and claims clearly distinguish between these respective elements. It is therefore clear error for the Examiner to ignore reference to a “merge tool” and a “merge support surface” as set forth in claim 9 and to read these upon elements of a carrier. This is inconsistent with the specification and with the understanding of the skilled artisan, and hence, not within a “broadest reasonable interpretation” of the claims. *In re Morris, Supra*.

Further, Schott '104 fails to disclose the recited merge support surface as being “arranged to contactingly engage a medial portion of the flexure thereby disengaging previous contacting engagement of the distal end of the flexure by a carrier,” as recited by

claim 9. As discussed above, no such contacting engagement of the distal end of the flexure is provided by Schott '104. Even so, Schott '104 fails to disclose explicitly or inherently that the buffering members 116A, 116B operate in this manner to disengage previous contacting engagement of the distal end of the flexure by the carrier, as set forth by the claim.

Moreover, Schott '104 fails to disclose the recited merge support surface as *"advancing the transducer to a final position adjacent a recording surface of the disc stack."* As mentioned above, one skilled in the art would understand this as describing a merge operation, of which Schott '104 is silent. The Applicant further respectfully points out that the carrier 82 of Schott '104 is incapable of carrying out a merge operation.

Reference is made for example to FIGS. 9-11 in Schott '104, where it can be seen that the carrier 82 is rotated in a clockwise direction (arrow 132 in FIG. 10) to place the carrier 82 onto the magnetic head assembly 84 in an interfering relation between the magnetic head assembly 84 and the disc stack. One skilled in the art would thus readily understand that, due to mechanical clearance issues, the carrier 82 would need to be removed from the magnetic head assembly 84 before the assembly 84 could be merged with the disc surface, as claimed.

For these reasons, the Applicant respectfully submits that the rejection of claim 9 is improper. Reconsideration and withdrawal of the rejection of claim 9, and for the claims depending therefrom, are respectfully requested on these bases.

With regard to independent claim 15, the Applicant points out that this claim also separately recites a *"carrier"* and a *"merge tool."* For the foregoing reasons, claim 15 is

also patentable over Schott '104 and reconsideration and withdrawal of the rejection of this claim, and for the claims depending therefrom, are respectfully solicited.

## 2. Price '325

Price '325 generally discloses a merge tool 13 used to merge an actuator 31 with a disc stack 21. Price discloses that a shipping clip (carrier) is used to protect the actuator 31 prior to the merging operation. Although the shipping clip is not shown, Price '325 generally discloses that the merge comb 41 of the tool 13 is used to engage the actuator while the shipping clip is still supporting the actuator, after which the shipping clip is removed and the actuator 31 is merged with the discs. See col. 3, line 54 to col. 4, line 4.

Price '325 is thus silent with regard to disclosing a *"carrier adapted to protect a head stack assembly comprising a cantilevered flexure which supports a transducer at a distal end thereof, the carrier comprising a carrier support surface arranged to continuously, contactingly support the distal end of the flexure adjacent the transducer and to permit a subsequent engagement of a medial portion of the flexure by a merge tool which disengages the flexure from the carrier support surface while merging the transducer with a recording surface,*" as claimed by claim 1.

As discussed above, it is reversible error for the Examiner to characterize the merge tool 13 of Price '325 as the recited "carrier." But in doing so, the Examiner further fails to account for the recited "*carrier support surface*" as being arranged to "*permit a subsequent engagement of a medial portion of the flexure by a merge tool,*" as further set forth by the claim.

Accordingly, reconsideration and withdrawal of the rejection of claim 1, and for the claims depending therefrom, are respectfully requested.

As to claim 9, Price '325 is silent with regard to disclosing a merge tool comprising *"a merge support surface arranged to contactingly engage a medial portion of the flexure thereby disengaging previous contacting engagement of the distal end of the flexure by a carrier and advancing the transducer to a final position adjacent a recording surface of the disc stack."*

Inherent anticipation can only be shown if one skilled in the art would view a prior art reference as *necessarily* disclosing a particular feature recited in the claim. See e.g., *Continental Can Co. v Monsanto Co.*, 948 F.2d 1264 (Fed. Cir. 1991). While Price '325 does disclose a shipping clip, it is not necessarily required that the shipping clip and merge tool '325 be respectively configured as set forth by the claim. Accordingly, the anticipation rejection of claim 9 cannot be supported, and reconsideration and withdrawal of the same, as well as for the claims depending therefrom, are respectfully requested.

For similar reasons, the rejection of claim 15 as being anticipated by Price '325 is also improper. Reconsideration and withdrawal of the rejection of claim 15, and the claims depending therefrom, are respectfully requested on these bases.

#### **Allowable Subject Matter**

The Applicant gratefully acknowledges the indication of allowability of claims 3-7, 13 and 17-18.

**Conclusion**

The Applicant respectfully requests reconsideration and allowance of all of the claims pending in the application. This Response is intended to be a complete response to the first Office Action mailed March 31, 2006. Should any questions arise concerning this response, the Examiner is invited to contact the below signed Attorney.

Respectfully submitted,

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